

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2090**

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**Introduced by Assembly Member Lieu**  
**(Coauthor: Assembly Member Spitzer)**

February 17, 2006

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An act to add Section 11380.5 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2090, as amended, Lieu. Controlled substances: public park or oceanfront beach.

Existing law makes it a felony, punishable by imprisonment in the state prison, to possess for sale or sell heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP).

This bill would provide that any person who is convicted of any of these offenses, in addition to the punishment imposed for that conviction, shall be imprisoned in the state prison for an additional one year if the violation occurred upon the grounds of a public park, *public library*, or oceanfront beach, including adjacent public parking lots and sidewalks *to a public park or oceanfront beach*, and if no other additional punishment is imposed pursuant to specified provisions of the Uniform Controlled Substances Act. However, the bill would provide that its provisions shall apply to a public park, *public library* or oceanfront beach only if the city council or county board of supervisors having jurisdiction over the public park, *public library*, or oceanfront beach adopts an ordinance designating the public park, *public library*, or oceanfront beach as a “drug-free zone” and notice of the bill’s provisions is posted at the public park, *public*

library, or oceanfront beach. The bill would provide that any city council or county board of supervisors that adopts an ordinance designating a public park, *public library* or oceanfront beach as a “drug-free zone” shall report annually to the Legislature on the number of arrests, and the disposition of each arrest, made in each “drug-free zone.” Because this bill would provide for an additional enhancement for a crime, and because it would require a local government to make a report to the Legislature, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11380.5 is added to the Health and
- 2 Safety Code, to read:
- 3 11380.5. (a) (1) Notwithstanding any other provision of law,
- 4 any person who is convicted of the possession for sale or the sale
- 5 of heroin, cocaine, cocaine base, methamphetamine, or
- 6 phencyclidine (PCP), in addition to the punishment imposed for
- 7 that conviction, shall be imprisoned in the state prison for an
- 8 additional one year if the violation occurred upon the grounds of
- 9 a ~~public park~~ park, *public library*, or oceanfront beach.
- 10 (2) For the purposes of this section, a “public park or
- 11 oceanfront beach” includes adjacent public parking lots and
- 12 sidewalks.
- 13 (3) *For purposes of this section, a “public park” includes a*
- 14 *public swimming pool and a public youth center.*
- 15 (4) *For the purposes of this section, a “public library” means*
- 16 *a library, or two or more libraries operated by a single entity by*

1 *one or more jurisdictions that serves the general public without*  
2 *distinction.*

3 (b) The additional punishment provided in this section shall  
4 not be imposed unless the allegation is charged in the accusatory  
5 pleading and admitted by the defendant or found to be true by the  
6 trier of fact.

7 (c) The additional punishment provided in this section shall  
8 not be imposed in the event that any other additional punishment  
9 is imposed pursuant to Section 11353.1, 11353.5, 11353.6,  
10 11353.7, or 11380.1.

11 (d) Notwithstanding any other provision of law, the court may  
12 strike the additional punishment provided for in this section if it  
13 determines that there are circumstances in mitigation of the  
14 additional punishment and states on the record its reasons for  
15 striking the additional punishment.

16 (e) This section shall apply to a public~~park~~ *park, public*  
17 *library*, or oceanfront beach only if the following conditions are  
18 satisfied:

19 (1) The city council or county board of supervisors having  
20 jurisdiction over the public~~park~~ *park, public library*, or  
21 oceanfront beach adopts an ordinance designating the public~~park~~  
22 *park, public library*, or oceanfront beach as a “drug-free zone”  
23 pursuant to this section.

24 (2) Notice of this law is posted at the public~~park~~ *park, public*  
25 *library*, or oceanfront beach.

26 ~~SEC. 2. Any city council or county board of supervisors that~~  
27 ~~adopts an ordinance designating a public park or oceanfront~~  
28 ~~beach as a “drug-free zone” shall report annually to the~~  
29 ~~Legislature on the number of arrests, and the disposition of each~~  
30 ~~arrest, made in each “drug-free zone.”~~

31 ~~SEC. 3.~~

32 *SEC. 2.* No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution for  
34 certain costs that may be incurred by a local agency or school  
35 district because, in that regard, this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the  
37 penalty for a crime or infraction, within the meaning of Section  
38 17556 of the Government Code, or changes the definition of a  
39 crime within the meaning of Section 6 of Article XIII B of the  
40 California Constitution.

1     However, if the Commission on State Mandates determines  
2     that this act contains other costs mandated by the state,  
3     reimbursement to local agencies and school districts for those  
4     costs shall be made pursuant to Part 7 (commencing with Section  
5     17500) of Division 4 of Title 2 of the Government Code.

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